IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

WEDNESDAY, THE 14TH MARCH 2007 / 23RD PHALGUNA 1928

OP.No. 13645 of 2003(Y)

PETITIONER:

K.P.PHILIPOSE,
PROPRIETOR, ST.MARY'S MATCH WORKS, KOLADY,
VAZHITHALA P.O., THODUPUZHA, IDUKKI DISTRICT.

BY ADV. SRI.JOSE J.MATHAIKAL

RESPONDENTS:
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1. THE DEPUTY TAHSILDAR (R.R),
TALUK OFFICE, MUVATTUPUZHA.

2. THE ADDITIONAL AGRICULTURAL INCOME TAX
AND SALES TAX OFFICER, 1ST CIRCLE, THODUPUZHA.

3. THE VILLAGE OFFICER,
MANAKKAD, THODUPUZHA, IDUKKI DISTRICT.

BY GOVERNMENT PLEADER SRI. C.K. GOVINDAN

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 14/03/2007 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP 23103 OF 2003 IN OP 13645 OF 2003

DISMISSED.

14.3.2007 SD/-C.N.RAMACHANDRAN NAIR, JUDGE.

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF THE DEMAND NOTICE DATED 12.11.99

EXT.P2 TRUE COPY OF THE LETTER DATED 18.12.2002 BY R3

EXT.P3 TRUE COPY OF THE DEMAND NOTICE NO. 3274/03 DATED 8.4.2003

EXT.P3(a) TRUE COPY OF DEMAND NOTICE NO. B4.3270/03 DATED 8.4.2003

RESPONDENTS' EXHIBITS: NIL.

TRUE COPY

P.S. TO JUDGE.

C.N.RAMACHANDRAN NAIR,J.

O.P.NO. 13645 OF 2003

Dated this the 14th day of March, 2007

JUDGMENT

Petitioner is challenging recovery proceedings for recovery of arrears of sales tax due which is around Rs. 2,55,000/- in 2003. Though petitioner was enjoying sales tax exemption, limit was exceeded in 1995. However, petitioner did not remit tax ever since he became liable. Petitioner's case is that property surrendered by him to the Tahsildar is sufficient to recover the arrears of tax. Government Pleader submitted that recovery cannot be continued based on petitioner's suggestion. Since petitioner is a defaulter, respondents are entitled to attach and sell his properties for recovery of arrears ignoring the offer made by him. However, since Amnesty Scheme was available in 2004, during the pendency of the O.P. I feel petitioner can be granted 50% reduction of interest payable under Section 23(3) of the KGST Act if arrears are paid with 50% interest due under Section 23 (3) on or before 30.4.2007. Moreover, if petitioner makes payment and clears arrears as above, then no collection charges will be recovered

from the petitioner. If petitioner commits default respondents are free to proceed for attachment and sale of any property of the petitioner for recovery of the entire arrears with full interest which shall be done after 30.4.2007. Petitioner is free to arrange for sale of any item of property including the surrendered property, but sale deed will be executed for any item of property only after Tahsildar clears such sale which should be granted on petitioner either remitting the arrears or making arrangement for payment through buyer immediately.

O.P. is disposed of as above.

(C.N.RAMACHANDRAN NAIR)
Judge